SUPREME COURT, U. S.

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IN THE

Supreme Court of the United States

October Term, 1969
No. 490

JAMES M. SINCLAIR, JR.,

Petitioner,

vs.

ANNA ROZA BOUGHTON,

Respondent.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit.

PETITIONER'S REPLY BRIEF.

JAMES M. SINCLAIR, JR.,
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Since the Petition for Certiorari was filed, two events have occurred which require the Petitioner to address this Court.

First, the Court has noticed probable jurisdiction of another action which will, like this action, require reconsideration of *Afroyim v. Rusk,* 387 U.S. 253. This other action is *Rogers v. Bellei,* No. 179, in which Mr. Bellei did not live the required 5 years in this country before the age of 28 to derive citizenship solely from his parentage. It is suggested to the Court that certiorari be granted in this action also, since both actions will depend upon the Court's present view of the principles involved in the *Afroyim* case.

Secondly, the Respondent has filed a Brief in Opposition to the Petition for Certiorari written by her counsel below. The Brief argues that she lost any Canadian citizenship upon divorce from her Canadian husband since she derived the said Canadian citizenship only from the act of marriage. It may be assumed that she would argue that she automatically resumed her former United States citizenship and that there thus is no longer any real question of her citizenship for this Court's review.

However, Respondent cites no authority for the legal point that she lost Canadian citizenship and resumed United States citizenship, and Petitioner can not find any such authority either. It is a basic point of citizenship law that United States citizenship is acquired solely by naturalization according to statute, or birth; Respondent claims no compliance with these reasonable naturalization statutes. Further, it would be unthinkable that a Canadian citizen would be denaturalized and made a stateless person solely because she divorced; the presumption is that she retains citizenship in her own right. See:

> "11. . . . a woman who, having been an alien, has by, or in consequence of, her marriage become a British subject, shall not, by reason only of . . . the dissolution of her marriage, cease to be a British subject."
>
> 1914, Statutes 4 and 5 Geo. 5, Chap. 17, Sec. 11.

Although these statutes were repealed in the sweeping 1948 British nationality revision, citizenship maritally acquired was preserved (p. 85, Jones, *British Nationality Law* (Revised Edition 1956)), and Section 11 was no

longer necessary as women had progressed to independent citizenship rights. Respondent also has an independent Canadian citizenship under the Revised Statutes of Canada (1952), Chapter 33, Section 9(1)(b) which does not depend upon continuance of marriage to Mr. Boughton.

Respondent's Brief argues a second point, that her husband was not "ineligible to citizenship" and that she thus never lost her United States Citizenship. She quotes 8 U.S.C. Sec. 1101(a)(19) for a definition of "ineligible to citizenship"; this section was enacted many years after the expatriating law was finally repealed. Petitioner contends that the Respondent lost her United States citizenship and the Congress so considered her as an alien in Report No. 2249 of the Committee on the Judiciary of the House of Representatives, 82nd Congress, 2nd Session (Petition: p. 1b; pp. 3-4). Petitioner requests this Court to take judicial notice of said Congressional Report as to the proper interpretation of the legislative intent.

Conclusion.

Since reconsideration of *Afroyim v. Rusk* is important enough to hear the *Rogers v. Bellei* case, it is urged that this case be heard for the same reason.

Respectfully submitted,

JAMES M. SINCLAIR, JR.,
Petitioner Pro Se.

October 21, 1969